JUDGE CROTTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

10 CV 9599

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STEVEN BOUZAS,

Plaintiff,

-against-

THE CITY OF NEW YORK and
DUANE PERCY,

Defendants.

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COMPLAINT

Trial by Jury Demanded

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Plaintiff, by his attorneys Sivin & Miller, LLP, complaining of defendants, alleges as follows, upon information and belief:

THE PARTIES AND JURISDICTION

1. That at all times herein mentioned, plaintiff was and is a citizen of the State of New York.

2. That at all times herein mentioned, defendants were and are citizens of the State of New York.

3. That this Court has jurisdiction over this action in that the action arises under 42 USC § 1983.

4. That at all times herein mentioned, defendant The City of New York (hereinafter "the City") was and is a municipal corporation, organized and existing under and by virtue of the laws of the State of New York.

5. That prior to the institution of this action and within ninety (90) days from the dates when the causes of action accrued herein, notices of claim and intention to sue were duly served upon and filed with the City on behalf of plaintiff; that this action was not commenced until the expiration of thirty (30) days after such notices of claim and intention

to sue were presented and the City has neglected and/or refused to make adjustment or payment thereon, and this action is being commenced within one year and ninety days after the causes of action accrued herein.

6. That at all times herein mentioned, the City operated, controlled and maintained a police force known as the New York Police Department (hereinafter "the NYPD").

7. That at all times herein mention, Duane Percy (hereinafter "Percy") was and is a police officer employed by the NYPD.

8. That at all times herein mentioned, Percy was acting within the course and scope of his employment with the NYPD.

9. That at all times herein mentioned, Percy was acting under color of state law.

10. That all of the causes of action pleaded herein fall within one or more of the exceptions set forth in New York's Civil Practice Law & Rules § 1602 with respect to joint and several liability.

FIRST CAUSE OF ACTION AGAINST BOTH DEFENDANTS
(Assault and Battery)

11. Plaintiff repeats and realleges each and every allegation contained above as though fully set forth at length herein.

12. That on or about February 21, 2010, at or near 511 W. 28th Street, in the County of New York, City and State of New York, the City, its agents, servants and/or employees, including Percy and other NYPD officers, assaulted and battered plaintiff without provocation or justification.

13. That the assault and battery consisted of, among other things, punching and kicking plaintiff, throwing plaintiff to the ground, and forcibly applying handcuffs to plaintiff.

14. That by reason of the aforesaid assault and battery, plaintiff sustained personal injuries, endured pain and suffering and a loss of enjoyment of life, and suffered economic loss, all to his damage in the amount of Two Million ($2,000,000) Dollars.

SECOND CAUSE OF ACTION AGAINST PERCY
(42 USC § 1983 Arising from Assault and Battery)

15. Plaintiff repeats and realleges each and every allegation contained above as though fully set forth at length herein.

16. That by reason of the aforesaid assault and battery, plaintiff was deprived of his rights, privileges and immunities secured by the Constitution of the United States of America and of the State of New York, including rights guaranteed to plaintiff under the Fourth Amendment to the US Constitution, and plaintiff is therefore entitled to compensation pursuant to 42 USC § 1983 in the amount of Two Million ($2,000,000) Dollars.

THIRD CAUSE OFACTION AGAINST BOTH DEFENDANTS
(False Arrest and Imprisonment)

17. Plaintiff repeats and realleges each and every allegation contained above as though fully set forth at length herein.

18. That on or about February 21, 2010, at or near 511 W. 28th Street, in the County of New York, City and State of New York, the City, its agents, servants and/or employees, including Percy and other NYPD officers, detained, arrested and imprisoned plaintiff without a warrant, without probable cause, and without plaintiff's consent.

19. That plaintiff's detention and imprisonment continued at various other locations for a period of approximately twenty four hours, until his release from custody on or about February 22, 2010.

20. That by reason of the false arrest, imprisonment and detention, plaintiff was subjected to great indignities, humiliation and ridicule, and was greatly injured in his credit and circumstances and was prevented and hindered from performing and transacting his necessary affairs and business, and was caused to suffer much pain in both mind and body, and to sustain economic loss, all to his damage in the amount of Two Million ($2,000,000) dollars.

FOURTH CAUSE OF ACTION AGAINST PERCY
(42 USC § 1983 Arising from False Arrest and Imprisonment)

21. Plaintiff repeats and realleges each and every allegation contained above as though fully set forth at length herein.

22. That by reason of the aforesaid false arrest and imprisonment, plaintiff was deprived of his rights, privileges and immunities secured by the Constitution of the United States of America and of the State of New York, including rights guaranteed to plaintiff under the Fourth Amendment to the US Constitution, and plaintiff is therefore entitled to compensation pursuant to 42 USC § 1983 in the amount of Two Million ($2,000,000) Dollars.

FIFTH CAUSE OF ACTION AGAINST BOTH DEFENDANTS
(Malicious Prosecution)

23. Plaintiff repeats and realleges each and every allegation contained above as though fully set forth at length herein.

24. That on or about February 21, 2010, The City of New York, by and through its agent, servant and/or employee Duane Percy, commenced and/or caused to be commenced against plaintiff a criminal prosecution in which plaintiff was falsely accused of various crimes of which he was innocent and of which Percy knew plaintiff to be innocent.

25. That in support of the aforesaid criminal prosecution Percy made statements and accusations about plaintiff that he knew to be false.

26. That the aforesaid actions by Percy were malicious in nature.

27. That the criminal prosecution of plaintiff continued for a period of approximately five months, during which time plaintiff was required to retain counsel, appear in court, and defend against the various false accusations made by Percy.

28. That on or about July 20, 2010, all criminal charges against plaintiff were dismissed on the merits, and the criminal prosecution resulted in a termination favorable to plaintiff.

29. That as a result of the foregoing, plaintiff suffered and continues to suffer physical, emotional, and psychological injuries, loss of liberty, embarrassment, humiliation, and damage to his name and reputation, and economic loss, all to his damage in the amount of Two Million ($2,000,000) dollars.

SIXTH CAUSE OF ACTION AGAINST PERCY
(42 USC § 1983 Arising from Malicious Prosecution)

30. Plaintiff repeats and realleges each and every allegation contained above as though fully set forth at length herein.

31. That by reason of the aforesaid malicious prosecution, plaintiff was deprived of his rights, privileges and immunities secured by the Constitution of the United States of America and of the State of New York, including rights guaranteed to plaintiff under the

Fourth Amendment to the US Constitution, and plaintiff is therefore entitled to compensation pursuant to 42 USC § 1983 in the amount of Two Million ($2,000,000) Dollars.

WHEREFORE, plaintiff demands judgment against defendants, and both of them, as follows: On the First Cause of Action: Two Million ($2,000,000) Dollars; On the Second Cause of Action: Two Million ($2,000,000) Dollars; On the Third Cause of Action: Two Million ($2,000,000) Dollars; On the Fourth Cause of Action: Two Million ($2,000,000) Dollars; on the Fifth Cause of Action: Two Million ($2,000,000) Dollars; on the Sixth Cause of Action: Two Million ($2,000,000) Dollars; and plaintiff demands punitive damages on all causes of action in an amount to be determined by the trier of fact, together with attorney's fees pursuant to 42 USC § 1988, and together with the costs and disbursements of this action.

Dated: New York, New York
December 23, 2010

Yours, etc.
SIVIN & MILLER, LLP

By____________________________

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Case No.

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COMPLAINT

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